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**State Bar Court of California
Hearing Department**

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Counsel For The State Bar

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Bar # 212469

In Pro Per Respondent

Lisa G. Propster
515 Lands End Way, Suite 172
Oceanside, CA 92054
(760) 231-8882

Bar # 165059

In the Matter Of:
LISA G. PROPSTER

Bar # 165059

A Member of the State Bar of California
(Respondent)

Case Number (s)
06-O-12120

(for Court's use)

PUBLIC MATTER

FILED

AUG 24 2007

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

Submitted to: **Assigned Judge**

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND
DISPOSITION AND ORDER APPROVING

ACTUAL SUSPENSION

PREVIOUS STIPULATION REJECTED

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **June 16, 1993**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **13** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **two (2) billing cycles following the effective date of the Supreme Court Order.**
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **One (1) year**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **Two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **Two (2) months**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the

probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason: .
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:

- (5) **Other Conditions:**

In the Matter of
LISA G. PROPSTER,
Bar # 165059

Case number(s):
06-O-12120

A Member of the State Bar

Law Office Management Conditions

- a. Within days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/**three (3)** months/ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **three (3)** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: LISA G. PROPSTER

CASE NUMBER: 06-O-12120

A. FACTS AND CONCLUSIONS OF LAW.

Respondent Lisa G. Propster (“Respondent”) admits that the following facts are true and that she is culpable of the violations of the specified statutes and/or Rules of Professional Conduct.

CASE NO. 06-O-12120

FACTS:

1. In April 2004, Deborah Swartz McIntyre (“McIntyre”) employed Respondent to file an unpaid wage claim against her former employer. On April 19, 2004, Respondent and McIntyre executed a contingency fee agreement.
2. On October 2, 2004, Respondent filed a complaint for damages in the matter *Deborah Swartz v. Datatek Components, Inc.*, Orange County Superior Court Case No. 04CC10627 (the “McIntyre matter”).
3. Between February 3 and March 10, 2006, Respondent sent a least thirteen faxes to the defendant’s counsel James Odium (“Odium”), discussing settlement of the McIntyre matter. During the same time period, Respondent also sent three faxes to the court, requesting the court’s intervention on discovery issues. On February 24, 2006, Respondent took the deposition of the defendant in the McIntyre matter. On February 27, 2006, Respondent sent Odium a written settlement offer on behalf of McIntyre. On March 10, 2006, Respondent wrote to Odium, confirming the continued deposition of defendant for March 15, 2006. In mid-March 2006, the defendant agreed to pay McIntyre \$24,000 for a full settlement of the McIntyre matter.
4. On March 15, 2006, Respondent filed an application for Transfer to Inactive Membership Status with Membership Records, requesting that her inactive status be effective starting January 1, 2006. In a handwritten letter attached to the application, Respondent further specified that she would not practice law in 2006, had no cases, and asked Membership Records to “retroactivate for 2006.” At the time Respondent requested to be placed on inactive status as of January 1, 2006, Respondent knew that she was still practicing law

as plaintiff's counsel in the McIntyre matter between January 1 and March 15, 2006.

5. On April 6, 2006, attorney Sterling Scott Winchell ("Winchell"), sent Odlum a letter on behalf of Respondent, informing Odlum that Respondent was on inactive status and notifying Odlum that Respondent claimed a lien of \$8,500 against any recovery by McIntyre. On April 12, 2006, Odlum responded to Winchell that the settlement offer negotiated by Respondent when she was not entitled to practice law made the settlement agreement voidable at the option of the defendant. The defendant in the McIntyre matter recanted the settlement agreement.
6. On or about January 30, 2007, Respondent was reinstated to active status.

LEGAL CONCLUSIONS:

- By representing to Membership Records that she did not practice law in 2006 and had no cases, and by specifically requesting to have the inactive enrollment retroactive, when Respondent knew that she was still practicing law as plaintiff's counsel in the McIntyre matter between January 1 and March 15, 2006, Respondent committed acts involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code section 6106.

B. PENDING PROCEEDINGS.

As of June 25, 2007, the disclosure date referred to, on page two, paragraph A.(7), there are no additional State Bar investigations pending against Respondent.

C. AUTHORITIES SUPPORTING DISCIPLINE.

Standards of Attorney Sanctions for Professional Misconduct, Title IV, of the Rules of Procedure of the State Bar of California (hereinafter "Standard(s)").

Standard 1.6(a) states that where two or more acts of professional misconduct are charged and different sanctions are prescribed by the standards for the acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.

Standard 1.2(b)(iii) provides that a member's misconduct surrounded by concealment is an aggravating circumstance.

Standard 2.3 provided that culpability of a member of an act of moral turpitude shall result in actual suspension or disbarment, depending on the extent of the harm to the victim and the magnitude of the misconduct and the degree to which it relates to the member's practice of law.

the magnitude of the misconduct and the degree to which it relates to the member's practice of law.

Case Law

In *In the Matter of Mitchell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 332, a respondent misrepresented his educational background on his resume that was sent to several law firms. The respondent received one year stayed suspension and one year probation with conditions, including sixty days actual suspension. The court found disturbing the respondent's explanation to the State Bar that he did not intend to deceive anyone and merely attempted to get a job interview at which time he would inform the employer of the true facts. The court did not consider in mitigation the respondent's six years in practice without a prior record of discipline.

In *In the Matter of Wyrick* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83, a respondent with a prior record of discipline knowingly misrepresented his employment history in seeking employment as a superior court arbitrator. The court found that misrepresentations are no less egregious when made to a public agency than when made to an individual client, and warrant discipline of no less magnitude. Wyrick received two years stayed and two years probation with conditions, including six months actual. In aggravation, Wyrick had a prior record, the misconduct occurred while he was on interim suspension in the previous matter, and he lied in his answers to interrogatories from the State Bar.

In the case at hand, Respondent does not have a prior record of discipline and should receive less discipline than Wyrick.

D. MITIGATING CIRCUMSTANCES.

- Respondent has no prior record of discipline. (Standard 1.2(e)(i).)

E. RESTRICTIONS WHILE ON ACTUAL SUSPENSION.

1. During the period of actual suspension, Respondent shall not:
 - A. Render legal consultation or advice to a client;
 - B. Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;
 - B. Appear as a representative of a client at a deposition or other discovery matter;

- C. Negotiate or transact any matter for or on behalf of a client with third parties;
- D. Receive, disburse, or otherwise handle a client's funds; or
- E. Engage in activities which constitute the practice of law.

2. Respondent shall declare under penalty of perjury that she has complied with this provision in any quarterly report required to be filed with the Probation Unit, pertaining to periods in which Respondent was actually suspended from the practice of law.

F. COST OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of June 5, 2007, the estimated prosecution costs in this matter are approximately \$2,045.05. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

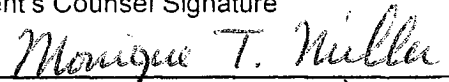
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In the Matter of LISA G. PROPSTER, Bar # 165059	Case number(s): 06-O-12120
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

7-10-07  LISA G. PROPSTER
 Date Respondent's Signature Print Name

_____ _____ _____
 Date Respondent's Counsel Signature Print Name
July 25, 2007  MONIQUE T. MILLER
 Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of	Case number(s):
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ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

see attached Order - Addendum

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted, ~~or 2) this court modifies or further modifies the approved stipulation.~~ (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)**

8/24/07
Date



DONALD F. MILES
Judge of the State Bar Court

ADDENDUM ORDER

The Court modifies the stipulation as follows:

1. On page 1, paragraph A.(3), line 3, "13" should be "12"
2. On page 2, paragraph A.(8), the following language should be inserted:

It is further recommended that if Respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286) and is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgement.

3. On page 8, paragraph 3, line 7, "Odum" should be "Odlum"
4. On page 8, paragraph 4, line 6, "she was still practicing law" should be "she had practiced law"
5. On page 9, paragraph B, the disclosure date identified in the stipulation is slightly more than 30 days before the filing date of the stipulation. This order is entered based on the assumption that there was no change in the information that needed to be disclosed had that disclosure taken place within the required time frame. The Office of Trial Counsel is ordered to immediately notify this Court and the Respondent in writing if that assumption is incorrect.
6. On page 9, paragraph C, standard 1.6(a) is not applicable and reference thereto should be deleted.
7. On page 9, paragraph C, reference to standard 1.2(b)(iii) should be deleted, as concealment is inherent in the violation.
8. On page 10, the first two lines at the top of the page should be deleted as redundant.

Date: August 24, 2007



Donald F. Miles
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 27, 2007, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING**

in a sealed envelope for collection and mailing on that date as follows:

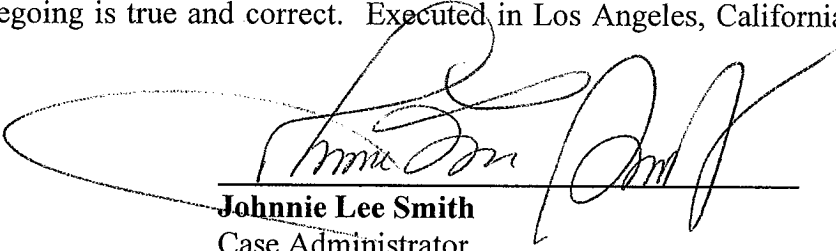
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LISA G. PROPSTER
515 LANDS END WAY #172
OCEANSIDE, CA 92054

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

MONIQUE MILLER , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **August 27, 2007**.



Johnnie Lee Smith
Case Administrator
State Bar Court